Kaplan Martin

1133 Avenue of the Americas
Suite 1500
New York, New York 10036

(212) 316-9500
tmartin@kaplanmartin.com

October 3, 2025

VIA ECF
The Honorable LaShann DeArcy Hall
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Pusateri, et al. v. Diageo North America, Inc.*, No. 25 Civ. 2482 (E.D.N.Y.)

Dear Judge DeArcy Hall:

We write on behalf of Defendant Diageo North America, Inc. ("Diageo") to address the parties' proposed agreed-upon briefing schedule for Diageo's anticipated motion to dismiss and additional matters related to the motion and Diageo's Pre-Motion Letter.

Proposed Briefing Schedule: The parties have met and conferred and should the Court allow Diageo to file its anticipated motion to dismiss, *see* ECF 25, the parties respectfully propose the following schedule for briefing that motion:

- October 31, 2025: Diageo's motion to dismiss due

- December 1, 2025: Plaintiffs' opposition due

- December 15, 2025: Diageo's reply due

Filing of Briefs on the Docket: Because Plaintiffs' allegations are false, highly inflammatory, and risk confusing distributors, retailers, and consumers in the marketplace, Diageo respectfully requests leave to file its briefs on the public docket as they are served on Plaintiffs. *Cf.* Individual Practices of Judge LaShann DeArcy Hall (E.D.N.Y.) R. III.B.2.

Clarification Regarding Colorado Law: Counsel for Diageo clarifies that the Colorado Consumer Protection Act was amended in 2022 to permit class-wide and injunctive relief in connection with putative class actions. *See* Colo. Rev. Stat. Ann. § 6-1-113(2.9); *see also* ECF 25 at 3 (suggesting otherwise). Plaintiffs' Colorado claims still fail as a matter of law for all of the other independent reasons identified in Diageo's Pre-Motion Letter. *See* ECF 25.

*   *   *

We are available to address any of the foregoing to the extent the Court has further questions or requests for follow-up.

Respectfully Submitted,

Timothy S. Martin

cc: All Counsel of Record (via ECF)